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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/796,090

03/10/2004

Keijiro Take

249305US-6 DIV

2323

22850

7590

12/28/2005

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

NGUYEN, BRIAN D

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/796,090	Applicant(s) TAKE, KEIJIRO	
	Examiner Brian D. Nguyen	Art Unit 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/156,703.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/27/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 7, 10, and 13 are objected to because of the following informalities:

Claim 7, line 5, it is suggested to change "sad code" to --said code--.

Claim 10, line 5, it is suggested to change "sad code" to --said code--.

Claim 13, line 5, it is suggested to change "sad code" to --said code--.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the plurality of mobile" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the base station controlling apparatus" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the plurality of mobile" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the base station controlling apparatus" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "the plurality of mobile" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the base station controlling apparatus" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "the plurality of mobile" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the base station controlling apparatus" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al (5,740,168) in view of Hamalainen et al (6,148,209).

Regarding claims 7 and 9, Nakamura discloses a radio communication method of a base station used for a radio communication system employing CDMA for radio access and providing multi-rate transmission, the radio communication method comprising: step of transmitting code information by message to one of the plurality of mobile stations, the code information for switching a first code being used to a second code (see S7 in figure 4 and col. 6, lines 22-28); step of transmitting timing information (switching timing) by message to the one of the plurality

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of mobile stations (see S17 in figure 4), the timing information including an integer representing a frame at which the first code is switched to the second code (see N frames and M frames in figure 6); step of switching the first code to the second code in synchronization with switching the first code to the second code at the one of the plurality of mobile stations (see S25 and col. 7, lines 4-11). Nakamura does not specifically disclose receiving a completion message to indicate completion of the step of switching at the one of the plurality of mobile stations as in claim 7 or the completion message is transmitted from the one of the plurality of mobile stations to the base station controlling apparatus (BSC) as in claim 9. However, receiving a complete message from the mobile at the base station and at the base station controlling apparatus is well known in the art. Hamalainen discloses this feature (see “assignment complete” in figure 6; “handover com/assignment com” in figure 7; col. 7, lines 23-26; and col. 8, lines 14-26. See also col. 5, lines 7-12 where Nakamura teaches the base station system BSS comprises base station controller BSC and base stations BTS and the tasks of the BSC). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to send a complete message from the mobile to the base station and the base station controller as taught by Hamalainen in the system of Nakamura in order to notify the base station controller that the assigned task has been completed.

Regarding claim 8, Nakamura discloses releasing the first code (the first code is released when the switching is completed).

Regarding claims 10 and 12, Nakamura discloses a radio communication method of a base station used for a radio communication system employing CDMA for radio access and providing multi-rate transmission, the radio communication method comprising: step of

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transmitting code information by message to one of the plurality of mobile stations, the code information for switching a first code being used to a second code (see S7 in figure 4 and col. 6, lines 22-28); step of transmitting timing information by message to the one of the plurality of mobile stations (see S17 in figure 4), the timing information regarding timing of switching the first code to the second code (see spread code switching in figures 6-19); step of switching the first code to the second code in synchronization with switching the first code to the second code at the one of the plurality of mobile stations (see S25 and col. 7, lines 4-11). Nakamura does not specifically disclose receiving a completion message to indicate completion of the step of switching at the one of the plurality of mobile stations as in claim 10 or the completion message is transmitted from the one of the plurality of mobile stations to the base station controlling apparatus (BSC) as in claim 12. However, receiving a complete message from the mobile at the base station and at the base station controlling apparatus is well known in the art. Hamalainen discloses this feature (see "assignment complete" in figure 6; "handover com/assignment com" in figure 7; col. 7, lines 23-26; and col. 8, lines 14-26. See also col. 5, lines 7-12 where Nakamura teaches the base station system BSS comprises base station controller BSC and base stations BTS and the tasks of the BSC). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to send a complete message from the mobile to the base station and the base station controller as taught by Hamalainen in the system of Nakamura in order to notify the base station controller that the assigned task has been completed.

Regarding claim 11, Nakamura discloses releasing the first code (the first code is released when the switching is complete).

Regarding claims 13-15, claims 13-15 are apparatus claims that have substantially the same limitations as the respective method claims 7-9. Therefore, they are subject to the same rejection.

Regarding claims 16-18, claims 16-18 are apparatus claims that have substantially the same limitations as the respective method claims 10-12. Therefore, they are subject to the same rejection.

Response to Arguments

6. Applicant's arguments with respect to claims 7, 10, 13, and 16 have been considered but are moot in view of the new ground(s) of rejection.

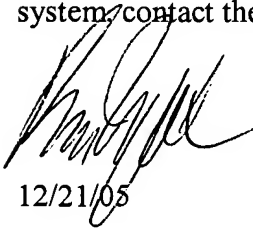
Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D. Nguyen whose telephone number is (571) 272-3084. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



12/21/05

BRIAN NGUYEN
PRIMARY EXAMINER